

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:09-CR-00226-RJC

USA

v.

NELSON DAVID TORRES AMPARO

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ORDER

THIS MATTER is before the Court on the defendant's pro se Petition for Final Disposition and Demand for Speedy Resolution of Any and All Charges/Warrants/Detainers. (Doc. No. 29).

On October 17, 2010, this Court sentenced the defendant to seventy months' imprisonment followed by 3 years' supervised release for Illegal Re-entry of a Deported Alien. (Doc. No. 16: Judgment). The defendant was deported to Honduras on March 9, 2015, then arrested in San Diego, California on May 4, 2015. (Doc. No. 28: Petition to Revoke Supervised Release at 1). The defendant is currently serving a fifty-seven month sentence from the Southern District of California for Attempted Re-entry of Removed Alien, (Case No. 3:15cr1411, Doc. No. 44: Judgment), with a projected release date of July 29, 2019. According to documents he submitted, there is a pending United States Marshals Service detainer relating to the Petition to Revoke Supervised Release in this case and a pending Immigration and Customs Enforcement detainer. (Doc. No. 29 at Attachment A, B).

The defendant contends the detainers are creating a hardship; therefore, he seeks their dismissal with prejudice pursuant to the Speedy Trial Act, 18 U.S.C. § 3161, Fed. R. Crim. P. 48(b) and the Sixth Amendment. (Doc. No. 29: Petition at 1). However, the mere lodging of a

detainer based on an unexecuted revocation warrant does not implicate an inmate's liberty interest in prompt resolution of the revocation hearing. Moody v. Daggett, 429 U.S. 78, 86 (1976). Thus, until the defendant is taken into custody pursuant to the Petition to Revoke Supervised Release, (Doc. No. 28 at Attachment 1: Warrant), he does not have a constitutional or procedural right to a hearing on the alleged violations. United States v. Arellano, 645 F. App'x 235, 236 (4th Cir. 2016) (applying Moody to supervised release proceedings).

IT IS, THEREFORE, ORDERED that the defendant's pro se Petition for Final Disposition and Demand for Speedy Resolution of Any and All Charges/Warrants/Detainers, (Doc. No. 29), is **DENIED**.

Signed: November 14, 2018

A handwritten signature in dark ink, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

